IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.4423 OF 2004

Shri Tatasaheb Keshav Sarate & Ors. ..Petitioners.
V/s.
Shri Mahadeo Shantinath Kole ..Respondent.

Shri Atul P. Vanarse for the petitioners.

CORAM : ANOOP V.MOHTA, J.

DATE : 25TH NOVEMBER, 2004.

P.C.

. Heard. The petitioners' second application for the appointment of the Commissioner was rejected by the impugned order dated 28/11/2003. Therefore, this Petition. The learned Judge has rightly relied on 1994 (2) Mah.L.J. 498, Khaja Hussain Nasilal Nadaf V/s Shri Gajanan Maharaj Sansthan Shegaon, whereby, this Court has already held that the party can point out the deficiency in report or incomplete report to the Court in the course of hearing and if the Court is satisfied that any such deficiency does exists, it may ask the court to direct the Commissioner or any other person to do the needful. The learned Judge, therefore, has further observed that the defendants are entitled to point out to the Court, deficiency in Commissioner report, at the time of hearing and therefore, at this

stage, it is not necessary at all to refer the matter for Second Commissioner. The view is correct. There is no case to interfere. The petition is disposed of accordingly.

[ANOOP V. MOHTA, J.]